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SENATE BILL 8012 By  
Crowe

HOUSE BILL 32 of the Second Extraordinary Session  
By Patton

AN ACT to amend Tennessee Code Annotated, Title 67, Chapter 4, relative to excise and franchise taxes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-4-2008, is amended by adding the following new subdivision:

(8) Limited liability companies, limited partnerships, and limited liability partnerships if all of the following criteria are met:

(A) At least 66.67% of the activity of the entity is either farming or the holding of one or more personal residences where one or more of the members or partners reside. For purposes of this subdivision, the following provisions shall apply:

(i) "Farming" is the growing of crops, nursery products, timber or fibers, such as cotton, for human or animal use or consumption or the keeping of horses, cattle, sheep, goats, chickens or other animals for human or animal use or consumption or the keeping of animals that produce products, such as milk, eggs, wool or hides for human or animal use or consumption.

(ii) For this purpose, the activity of the entity shall be considered farming only if at least 66.67% of its income, including

capital gains from the sale of assets used in farming, is derived from farming and at least 66.67% of its assets, valued at original cost to the entity, are used by the owner or by the owner's lessee or sharecropper for farming. In the event that an asset's original cost to the entity cannot be determined, or there is no original cost to the entity, for purposes of this subdivision, the property shall be valued at its fair market value at the time of acquisition by the entity.

(iii) A "personal residence(s)", as the term is used in subdivision (A) above, shall include acreage contiguous to the dwelling.

(iv) Any entity that qualifies for franchise tax exemption under this subdivision (8), because of farming activity or because property has been used as a personal residence for at least five (5) years, shall remain exempt for one (1) year from the end of the calendar year in which it ceases to qualify for the exemption, but only with regard to property and transactions related to property that it held at the time that it last qualified for the exemption. Net worth resulting from sales and other transactions involving real, tangible, or intangible property acquired by the entity after it ceased to qualify for the exemption ("after-acquired property") shall be subject to the franchise tax. After-acquired property shall be included in the entity's franchise tax minimum measure. If the entity computes an apportionment formula, any after-acquired property and any compensation or gross receipts related to such

property shall be included in the appropriate factors of such formula.

(v) In order to qualify as a personal residence, the dwelling unit must be occupied for personal use by partners or members of the entity for more days than it is rented to others who are not partners or members of the entity. For purposes of this subdivision, the provisions of internal revenue code section 280A(d)(2) shall be used to define "personal use".

(B) At least ninety-five percent (95%) of the voting rights, capital interest or profits of the entity are owned either by natural persons who are relatives of one another or by trusts for their benefit. For this purpose, natural persons shall be considered "relatives" if, by blood or adoption, they are descended from a common ancestor and their relationship with each other is that of a first (1st) cousin or closer than that of a first (1st) cousin, or if they are spouses of one another.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.